

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	10/002,355	HOFER ET AL.
	Examiner	Art Unit

Gary C. Vieaux

2612

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 7/28/2005.
2.  The allowed claim(s) is/are 1-7, 9-17, 19-21 and 23-28 (now formally renumbered as claims 1-25).
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date 20050915.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

Continuation of Substance of Interview including description of the general nature of what was discussed:  
Continuation of Substance of Interview including description of the general nature of what was discussed: Claim 9 contained an amendment, but was listed as Previously Presented instead of Currently Amended. Mr. Nelson agrees with the Examiner's Amendment to correct this informality. Claim 9 was amended to be dependent upon claim 1. Claim 9 is now allowable based upon its amended dependence upon allowed claim 1..

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be

5 submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert W. Nelson on September 15, 2005 at 3:35pm EST.

The application has been amended as follows:

**Claim 9 is amended to be dependent upon claim 1.**

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### **REASONS FOR ALLOWANCE**

#### ***Amendment***

The Amendment filed July 28, 2005 has been received and made of record. In  
15 response to the Final Office Action, claim 8 has been cancelled and claims 1, 19, and  
20 have been amended by the Applicant.

#### ***Terminal Disclaimer***

The terminal disclaimer filed on July 28, 2005 disclaiming the terminal portion of  
20 any patent granted on this application which would extend beyond the expiration date of  
US Patent No. 6,865,293 has been reviewed and is accepted. The terminal disclaimer  
has been recorded.

***Response to Amendment***

In response to Applicant's amended claims 19 and 20, the issues regarding dependency upon an apparatus claim have been corrected. Therefore, this objection to both claim 19 and 20 has been withdrawn.

5 In response to Applicant's amended claim 20, the informality regarding proper dependency upon claim 17 has been corrected. Therefore, this objection has been withdrawn.

***Response to Arguments***

10 Applicant's arguments with respect to newly amended claim 1 have been fully considered and are persuasive. The 103(a) rejection of claim 1 has been withdrawn. Additionally, based upon their dependency to allowed claim 1, the 103(a) rejections to claims 2, 4-7, and 10-11 have been withdrawn.

15 ***Allowable Subject Matter***

**Claims 1-7, 10-11, 15-16, and 25-26** are allowed.

Regarding claim 1, the prior art is not found to teach or fairly suggest, in combination with the existing elements of the present claim as currently amended, a confirmation of the actual frequency of the artificial illuminant by comparing the measured light for a reduction in the variability of the light intensity.

Regarding claims 2, 4-7, and 10-11, in response to Applicant's amended claim 1, claims 2, 4-7, and 10-11 are also now allowable, as they are either directly or indirectly dependent upon an allowed claim.

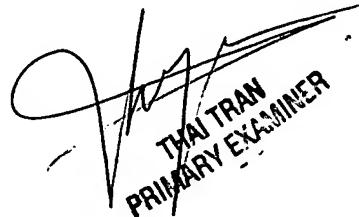
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Contact*

10 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Vieux whose telephone number is 571-272-7318. The examiner can normally be reached on Monday - Friday, 8:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Q. Tran can be reached on 571-272-7382. The fax phone number for 15 the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. 20 For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



THAI TRAN  
PRIMARY EXAMINER